

ORDERED that plaintiff is assessed a filing fee of \$350.00 and shall pay the entire filing fee in the manner set forth in this order pursuant to 28 U.S.C. § 1915(b)(1) and (2), regardless of the outcome of the litigation; and it is further

ORDERED that in each month that the amount in plaintiff's account exceeds \$10.00, until the \$350.00 filing fee is paid, the agency having custody of the plaintiff shall assess, deduct from plaintiff's account, and forward to the Clerk of the Court payment equal to 20% of the preceding month's income credited to plaintiff's account, pursuant to 28 U.S.C. § 1915(b)(2), and each payment shall reference the civil docket number of this action; and it is further

ORDERED that plaintiff's complaint is hereby dismissed, without prejudice, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), for failure to state a claim upon which relief may be granted; within 45 days from the date this order is entered, plaintiff may move to reopen his case, attaching to any such motion a proposed amended complaint which addresses the deficiencies of the complaint as stated in the opinion accompanying this order; and it is finally

ORDERED that the Clerk of the Court shall close this case.



PETER G. SHERIDAN
United States District Judge

12-2-10